

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY : MDL 1456
AVERAGE WHOLESALE PRICE :
LITIGATION, :
: Master File No. 01-CV-12257-PBS
THIS DOCUMENT RELATES TO: :
ALL ACTIONS :
: Judge Patti B. Saris
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**MOTION OF NON-PARTIES, FIRST DATABANK, INC. AND
PATRICIA KAY MORGAN TO FILE A MEMORANDUM IN EXCESS
OF TWENTY PAGES IN SUPPORT OF (1) THEIR OPPOSITION TO
DEFENDANTS' MOTION TO ENFORCE SUBPOENA AND
(2) IN SUPPORT OF THEIR COUNTER-MOTION TO LIMIT
ALL SUBPOENAS SEEKING ADDITIONAL TESTIMONY**

Non-parties First DataBank, Inc. and Patricia Kay Morgan (collectively, "FDB"), respectfully move this Court for leave to file a brief in excess of the twenty-page limit set forth in L.R. 7.1(B)(4) in support of (1) their Opposition to the Motion of Defendants, Novartis Pharmaceuticals Corporation and Bristol-Myers Squibb Company, to compel deposition testimony from Ms. Morgan, and (2) their Counter-Motion to limit all subpoenas seeking additional testimony.

As grounds for this motion, FDB states that the issues raised by the Motion to Compel are factually complex in that Ms. Morgan and other FDB personnel have previously been subpoenaed and deposed numerous times in substantially similar cases and discussion of those other proceedings is relevant and material to the Court's determination of the Novartis' and Bristol-Myers' Motion. Moreover, FDB is not only opposing the Novartis' and Bristol-Myers'

Motion to Compel, but is separately counter-moving to limit *all* the subpoenas that have been issued to it in this case. Rather than serving an entirely different set of papers to make this counter-motion, FDB proposes to include all its arguments in one comprehensive memorandum. The Court's ruling on these motions will have far-reaching consequences for FDB, and thus it should be permitted the latitude to make a full and effective argument in Opposition to the Motion and in Support of the Counter-Motion.

The requested expansion of the 20-page limit is modest as the non-parties request permission to file a brief of approximately 30 pages.

The non-parties appreciate the pressure that this complex action must place upon the Court's time and resources and every effort has been and will be made to provide the Court with a succinct brief. The additional pages are required, however, to provide the Court with sufficient factual context and discussion of pertinent legal principles so as to most effectively assist the Court in making its ruling on the motions.

L.R. 7.1 CERTIFICATION

Counsel for Bristol-Myers Squibb Company, speaking on behalf of the moving defendants, have been consulted, and do not object to the motion to enlarge the page limitation.

Respectfully submitted,

FIRST DATABANK, INC. AND
PATRICIA K. MORGAN,

By their attorneys,



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DATED: August 16, 2004

CERTIFICATE OF SERVICE

I Hereby Certify That On This Day
A True Copy Of The Within Document
Was Served Upon The Attorney Of
Record For Each Party By Mail/~~Hand~~

Dated: 8/16/04

